game, classified in class 463, subclass 13.

III. Claims 7-9, 27-29 and 71-93, drawn to a progressive pool game, classified in class 463, subclass 27.

IV. Claims 24, 49 and 60-68, drawn to a system of networked entertainment machines, classified in class 463, subclass 1.

V. Claims 30-45 and 54, drawn to a method of operating networked entertainment automats, classified in class 463, subclass 42.

The Applicant selects group III to be prosecuted.

The requirement is respectfully traversed.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are directed to related processes. The related inventions are distinct if: (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the inventions as claimed are directed to different methods of operating gaming or entertainment machines. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

The method of operating an entertainment automat can overlap with a method of providing a poker-type card game.

3. Inventions I and III are directed to related processes. The related inventions are distinct if: (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the inventions as claimed are directed to different methods of operating gaming or

entertainment machines. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

The inventions are directed to related methods or running entertainment automats.

4. Inventions I and IV are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case IV is an apparatus that may run other processes.

The invention IV is directed to a system. The system cannot be used to run other materially different processes.

5. Inventions I and V are directed to related processes. The related inventions are distinct if: (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the inventions as claimed are directed to different methods of operating gaming or entertainment machines. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

The method of group I is directed to operating an entertainment automat and the method of group V is directed to operate networked entertaining automats. The inventions are directed to a single entertainment automat and to a plurality of entertainment automats. This is insufficient to establish group I and group V as separate inventions.

6. Inventions II and III are directed to related processes. The related inventions are

distinct if: (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the inventions as claimed are directed to different methods of operating gaming or entertainment machines. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

The claims of group II and group III are related and refer to the operation of entertainment automats. There is no showing that they are different inventions.

7. Inventions II and IV are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case IV is an apparatus that may run other processes.

The claims of group IV are directed to a system involved in the operation of entertainment automats. The system is such as not to run materially different processes.

8. Inventions II and V are directed to related processes. The related inventions are distinct if: (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the inventions as claimed are directed to different methods of operating gaming or entertainment machines. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious

variants.

The methods of group II and group V are related. They refer to the operation of entertainment automats. They are closely related and represent a single invention.

9. Inventions III and IV are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case IV is an apparatus that may run other processes.

The apparatus of group IV is not adapted to run other processes, which are materially different from the process of group III.

10. Inventions III and V are directed to related processes. The related inventions are distinct if: (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the inventions as claimed are directed to different methods of operating gaming or entertainment machines. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

The inventions of group II and group V are related. They represent one invention. They have steps wich are similar. They are closely associated with gaming automats.

11. Inventions IV and V are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP §

806.05(e)). In this case IV is an apparatus that may run other processes. 12. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

(a) the inventions have acquired a separate status in the art in view of their different classification;

(b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

(c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);

(d) the prior art applicable to one invention would not likely be applicable to another invention;

(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

The method of the claims of group V can have some of its steps performed on the apparatus of group IV. The claims of group V contain steps which are to be performed on the apparatus of group IV.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected invention.**

Applicant selects the claims of group III for further prosecution.

The claims of group III are claims 7-9, 27-29 and 71-93 and these encompass the elected invention.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse.

The required election of group III is respectfully traversed.

If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

No claims are added in the present response.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

13. Invention I contains claims directed to the following patentably distinct species a single player game, a progressive game master process whereby the highest winning value within a time limit is the winner, and a progressive game slave program whereby the highest winning value in a time limit is the winner. The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is

finally held to be allowable.

There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph. 14. Invention II contains claims directed to the following patentably distinct species a single player poker-type card game (fig 3) and a networked progressive game. The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

15. Invention III contains claims directed to the following patentably distinct species a single player symbol game (fig 4), a networked progressive symbol game under control of a master and timed (fig 5), a networked progressive symbol game under control of a master and duration determined by count of games (fig 7), symbol match progressive game by count of games slave program (fig 8). The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of

such species. In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Applicant elects the species (Fig. 7) under restricted group III. The claims 78 to 93 appear to fall under this species (Fig. 7). Claims 7 to 9, 27 to 29, 71, 73, and 75 appear to be generic. Claims 72, 74, 76 and 77 appear to belong to other species.

There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

16. Invention IV contains claims directed to the following patentably distinct species a gaming machine device (fig 2), a gaming device administering a progressive pool, and a networked gaming device with master/slave handling. The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Applicant elects the species "Fig. 7" of group III for prosecution on the merits.

There is an examination and search burden for these patentably distinct species due

to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph. 17. Invention V contains claims directed to the following patentably distinct species a method of handling master/slave determination, a progressive pool game with winnings distributed amongst devices, a method of administering a timed progressive game by a master program (fig 5), a method of administering a timed progressive game by a slave program (fig 6), a method of administering a progressive game by a count of games by a master program (fig 7), a method of administering a progressive game by a count of games by a slave program (fig 8). The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Applicant elects the species "Fig. 7" of group III for prosecution on the merits.

There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined even though the requirement may be

traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected species,** including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Applicant elects the species "Fig. 7" of group III for prosecution on the merits.

The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the equirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species.

Applicant makes the election of species without traverse

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

The Office Action refers to Remarks on Amendment.

18. The applicant plans to separately respond to the Remarks on Amendment.

Reconsideration of all outstanding rejections is respectfully

requested. All claims as presently submitted are deemed to be in form for allowance and on early notice of allowance is earnestly solicited.

Respectfully submitted,

Michael Gauselmann

By: Horst M Kasper

Horst M. Kasper, his attorney,
13 Forest Drive, Warren, N.J. 07059
Tel.:(908) 526-1717 Fax:(908) 526-6977
Reg. No. 28,559; Docket No.: ADP231

rep/am